

Message

From: Sengco, Mario [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4138218D625A4B6ABCD6C519817A6917-SENGCO, MARIO]
Sent: 5/11/2020 4:11:49 PM
To: Wirick, Holiday [wirick.holiday@epa.gov]
Subject: RE: Question about state adoption of wetlands criteria

Thanks so much! This is very helpful.

Mario

From: Wirick, Holiday <wirick.holiday@epa.gov>
Sent: Monday, May 11, 2020 11:33 AM
To: Sengco, Mario <Sengco.Mario@epa.gov>
Subject: Re: Question about state adoption of wetlands criteria

Hi Mario, thanks so much for passing along ND's ammonia criteria for review.

Sorry for the delay on responding about the wetlands criteria. ND recently adopted (Dec 2018) numeric standards for wetlands (as Pete Wax said he was able to "sneak" them through).

At 33.1-16-02.1-09 3(f) "Wetlands, including isolated ponds, class 4 lakes not listed in appendix II, sloughs and marshes. The physical and chemical criteria shall be those for class III streams, with exceptions for temperature, dissolved oxygen as listed in g. 6, and other conditions not attributable to municipal, industrial, domestic or agricultural sources."

In SD, language for protection of wetlands is as follows:

74:51:01:11. Protection of wetlands as waters of the state. Wetlands are waters of the state and are allowed protection under the provisions of this chapter. The discharge of pollutants from any source, including indiscriminate use of fill material, may not cause destruction or impairment of wetlands except where authorized under § 402 or § 404 of the Federal Water Pollution Control Act as amended to February 4, 1987, or under 40 C.F.R. Parts 257 and 258, Solid Waste Disposal Facility Criteria; Final Rule, as amended to July 1, 1996. The provisions of §§ 74:51:01:06 to 74:51:01:10, inclusive, 74:51:01:12, 74:51:01:34 to 74:51:01:39, inclusive, 74:51:01:52, and 74:51:01:63 to 74:51:01:65, inclusive, apply to all wetlands. In addition, the department shall evaluate wetlands to determine the applicability of such wetlands to the toxic pollutant standards provided in § 74:51:01:55 and Appendix B at the end of this chapter.

Please let me know if you would like additional information.

Thanks Mario. Have a great day!

Holly

From: Sengco, Mario <Sengco.Mario@epa.gov>
Sent: Monday, May 11, 2020 7:30 AM
To: Wirick, Holiday <wirick.holiday@epa.gov>
Subject: FW: Question about state adoption of wetlands criteria

Hi, Holly

Any thoughts from the Dakotas on this request?

Mario

From: Pierce, Maggie <Pierce.Maggie@epa.gov>

Sent: Friday, May 08, 2020 4:36 PM

To: Parrish, George <Parrish.George@epa.gov>; Moon, Dave <Moon.Dave@epa.gov>; Fish, Tonya <Fish.Tonya@epa.gov>; Sengco, Mario <Sengco.Mario@epa.gov>; R8 WQS <R8_WQS@epa.gov>

Subject: RE: Question about state adoption of wetlands criteria

I don't think WY WQS really have what you're looking for or something that would be a narrative criterion for wetlands. They explicitly apply the same criteria that apply to waters to the adjacent wetlands. They also have a "protection of wetlands" statement. It's kinda weird in that it has one foot in 404 and maybe a toe (?) in 402. It's never come up for me:

Section 12. Protection of Wetlands. Point or nonpoint sources of pollution shall not cause the destruction, damage, or impairment of naturally occurring wetlands except when mitigated through an authorized wetlands mitigation process. When approving mitigation, the department may consider both the ecological functions and the wetland value of the disturbed wetland. This section does not apply to wetlands created by point or nonpoint sources, nor are such wetlands required to be maintained through continuation of such discharges. Similarly, any manmade wetlands or enhancements which have been credited in the state wetland banking program are not required to be maintained until the credit is used for mitigation purposes. These areas will, however, be protected from discharges of wastes, toxic substances or chemical pollutants as are any other waters of the state.

From: Parrish, George <Parrish.George@epa.gov>

Sent: Thursday, May 7, 2020 2:57 PM

To: Moon, Dave <Moon.Dave@epa.gov>; Fish, Tonya <Fish.Tonya@epa.gov>; Sengco, Mario <Sengco.Mario@epa.gov>; R8 WQS <R8_WQS@epa.gov>

Subject: RE: Question about state adoption of wetlands criteria

Hey Mario – hope you're doing well, staying sane and singing out your windows every evening for DC's 1st responders.

Utah has at times applied a generic narrative criterion (see pasted below) to wetlands. Their narrative criterion is generic (applying to all waters of the state – not specific to wetlands) and Chris Bittner tells me it has been applied to some previous wetlands problem areas. There is no wetland-specific nor nutrient-specific narrative. There is some UDWQ interest in adding a narrative criterion specifically applicable to wetlands – no sign of any real traction on that though. Tina may know better how often the generic narrative's been applied for nutrient issues.

R317-2-7 (excerpt)

7.2 Narrative Standards

It shall be unlawful, and a violation of these rules, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3.

Hope that's helpful

geo

From: Moon, Dave <Moon.Dave@epa.gov>

Sent: Thursday, May 7, 2020 9:51 AM

To: Fish, Tonya <Fish.Tonya@epa.gov>; Sengco, Mario <Sengco.Mario@epa.gov>; R8 WQS <R8_WQS@epa.gov>

Subject: RE: Question about state adoption of wetlands criteria

No narrative wetlands criteria in Colorado either. Nothing for nutrients, and nothing for biology.

From: Fish, Tonya <Fish.Tonya@epa.gov>

Sent: Thursday, May 7, 2020 9:05 AM

To: Sengco, Mario <Sengco.Mario@epa.gov>; R8 WQS <R8_WQS@epa.gov>

Subject: RE: Question about state adoption of wetlands criteria

Mario,

No narrative wetlands criteria in MT.

Tonya